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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,561	08/22/2003	Yuzo Migita	030992	8686

23850 7590 04/05/2006

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

LHYMN, EUGENE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/645,561	Applicant(s) MIGITA, YUZO	
	Examiner Eugene Lhymn	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Howard et al. (US 5078297). With respect to claim 1, Howard et al. discloses the following:

- A case main body, the upper brim having turnback edges
- Partition plate that slides along upper brim of main body
- Partition plate having U-shaped portions detachably hitched on the container sidewalls, said partition plate having a wedge-shaped claw portion (Fig. 3) protruding from an inner side of the holding piece (44f, 44r)
- The claw portion sliding over the turnback edges resulting in elastic deformation of the holding piece portion

With respect to claim 3, Howard et al. discloses the belt portion facing an inner face of the case main body (44f, 44r).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huhn (US 5395049) in view of Ohnstrand (US 1036515). With respect to claim 1, Huhn discloses the following:

- Case main body
- Partition plate that slides along upper brim of main body
- Partition plates are elastically deformable

However, Huhn fails to disclose the container having turnback edges, and a claw portion that fits around the brim's turnback edges. Nonetheless, Ohnstrand teaches a partitioned container having turnback edges and a claw portion that wraps around said turnback edge, as shown in Fig. 3, thereby providing an alternate and secure interface. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the container of Huhn to have a flange, and the partitions to have corresponding claw portions as taught by Ohnstrand so as to provide an alternate and secure interface.

With respect to claim 3, Huhn discloses the partition having a belt portion facing an inner face of the container (Fig. 1, item 81).

3. Claims 4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang (US 6036049) in view of Huhn and Ohnstrand. With respect to claim 4, Hwang

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discloses a container main body with a lid with ventilation, but fails to disclose partition plate structure. Nonetheless, Huhn teaches partition plates sliding along the upper brim of the main body, the partitions being elastically deformable, thereby providing the container of Hwang with increased versatility to segregate items, but Huhn fails to teach a claw portion that fits around the brim's turnback edges. Nonetheless, Ohnstrand teaches a claw portion that wraps around said turnback edge, as shown in Fig. 3, thereby providing an alternate and secure interface. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add elastically deformable partitions to the container of Hwang as taught by Huhn so as to provide increased versatility, and to modify the partition-container interface to have a claw portion that wraps around the upper brim as taught by Ohnstrand so as to provide a secure interface.

4. Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huhn in view of Ohnstrand as applied to claim 1 above, and further in view of Rickman (US 2003/0015532 A1) and McLaren (US 4389802). With respect to claim 7, Huhn as modified above discloses the claimed invention except for the claw portion having a right-angle triangle cross-section. However, Rickman teaches a closure having the same linear claw portion as taught by Ohnstrand (Fig. 9), and McLaren teaches a closure having a claw portion having a right-angle triangle cross-section (Fig. 2), thus teaching that either closure structure being an equivalent of each other, hence teaching to modify the claw portion of Ohnstrand to have a triangle cross-section. Therefore, it

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would have been obvious to one of ordinary skill in the art at the time of the invention to modify the claw portion of Huhn as modified by Ohstrand to have a triangle cross-section as taught by Rickman and McLaren so as to provide an equivalent and alternate configuration.

With respect to claim 8, McLaren teaches the claw portion having a rounded edge (Fig. 2).

5. Claims 4 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard et al. in view of Walsh et al. (US 5862932). With respect to claim 4, Howard et al. discloses the claimed invention except for the lid having ventilation holes. However, Walsh et al. teaches a refuse container wherein the lid has ventilation holes (29) that are used for providing deodorizing means for the surroundings of the container, wherein said ventilation holes work in conjunction with scent releaser (23). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lid of Howard et al. to have a scent releaser and corresponding ventilation holes as taught by Walsh et al. so as to provide air freshening means.

With respect to claim 6, Howard et al. discloses the belt portion facing an inner face of the case main body (44f, 44r).

6. Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard et al. in view of Rickman (US 2003/0015532 A1) and McLaren (US 4389802). With respect to claim 7, Howard et al. discloses the claimed invention except for the

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claw portion having a right-angle triangle cross-section. However, Rickman teaches a closure having a substantially identical claw portion as taught by Howard et al., and McLaren teaches a closure having a claw portion having a right-angle triangle cross-section (Fig. 2), thus teaching that either closure structure being an equivalent of each other, hence teaching to modify the claw portion of Howard et al. to have a right triangle cross-section. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the claw portion of Howard et al. to have to right triangle cross-section as taught by Rickman and McLaren so as to provide an equivalent and alternate configuration.

Response to Arguments

7. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lhymn whose telephone number is 571-272-8712. The examiner can normally be reached on MTWT 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen K. Cronin
Primary Examiner